

FICCI Defence and Aerospace Committee Meeting

April 10, 2020
(Via Video Conference)



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Draft of Defence Procurement Procedure 2020

- Uploaded on 19 March 2020
- Comments due by 17 April 2020

Snapshot: What's new? – Chapter I

Chapter I		
Paragraph	Change	
<u>Acquisition Category</u>		
Para 11:	New Acquisition Category – Buy (Global – Manufacture in India)	
Para 13	New Acquisition Categories – Leasing (See Ch II Para 130-133)	
Para 14	<ul style="list-style-type: none"> • Inclusion of Design and Development (D & D)/Innovation • Brings iDEX and TDF under ambit of acqn 	Para 14&15 replace “Make” under DPP 2016
Para 15	Strategic Partnership Model (SPM)	
<u>Definition</u>		
Para 16	Definition of Indian Vendor updated	

Snapshot: What's new? – Chapter I

Chapter I

Paragraph	Change
<u>Transparency and efficiency</u>	
Para 26 (a)	Introduction of Independent Monitors to examine complaints
Para 26 (b)	Introduction of onboarding Subject Matter Experts for procurement
Para 26 (c)	Training on procurement process for key personnel -> includes training by industry associations
<u>Capacity Building</u>	
Para 26 (d)	Incorporation of AI
Para 26 (e)	Military Materials; ToT for manufacture of Materials
Para 26 (f)	Indigenous Software
Para 26 (g)	AeroEngines and FAB
Para 27	Applicability of DPP 2020 from 01 April 2020
Annexure A	Undertaking to comply with Indigenous Design → Word for Word of FICCI Draft
Annexure B	New Methodology to calculate Indigenous Content

Transparency and efficiency

Capacity Building

Snapshot: What's new? – Chapter I

Indigenous Content Calculation

Sl. No.	Description	Import In USD	Import In EUR	Import (.....)	
1.	Import Content of Equipment & Materials				<p>1. The PC shall obtain the details required as per the IC Proforma from all the top Indigenous T1 suppliers by value ensuring that total of his own cost and value of these top T1 suppliers account for a minimum of 80% by value of the total contract value. Further, the details as per the IC Proforma shall also be obtained by the PC from Indigenous T2 suppliers of these top T1 suppliers, if one of the below conditions are met in respect of the T2 suppliers:-</p> <p>(a) the contract value of T2 supplier exceeds 10 Crores; or (b) the contract value of T2 supplier is greater than 5% of the Contract Value of the T1 supplier.</p> <p>2. The Prime Contractor shall use the above inputs received from such T1 and T2 suppliers, as detailed ibid, to compute the IC.</p> <p>3. For Indigenous Supplies from the balance T1 suppliers, the import content shall be aggregated in the IC Proforma by the PC, under the head 'Balance T1 Suppliers' at a flat estimated rate of 15% of the total value of supplies. In case the Prime Contractor desires, he may include import certification for additional Tier1 suppliers, over and above the top T1 suppliers considered in paragraph 7 above.</p>
	- Basic Eqpt & Material (by PC & stipulated T1 & T2 suppliers)				
	- MRLS (by PC & stipulated T1 & T2 suppliers)				
	- Special Maint. Tools (SMT) (by PC & stipulated T1 & T2 suppliers)				
	- Special Test Equipment (STE)(by PC & stipulated T1 & T2 suppliers)				
	Freight / Transportation & Insurance (if paid by supplier)				
	- Balance T1 Suppliers (@15% FC)				
	- By Others (@90% FC)				
	Sub Total (A)				
2.	Import of Services				<p>4. Besides the Direct Imports by the main contractor and the imports by key Tier 1 & Tier 2 suppliers, <u>imported components/ equipment bought through traders, stockists and/or local agents of foreign suppliers shall be aggregated in the IC proforma, under the head 'Others' at a flat estimated rate of 90% of the purchase value, unless accompanied by import certification.</u></p>
	- Royalty Fee				
	- License Fee if any				
	- Technical know-how fee				
	- Consultation fees				
	- Other fees/payment				
	Sub Total (B) Grand Total - C = (A+B)				
Computation of Indigenous Content					
3.	Base Exchange Rate		D		
4.	Import in INR based on Base Exchange Rate			E = C x D	

Snapshot: What's new? – Chapter I

Indigenous Content Calculation (Cont.)

	Base Exchange Rate (Ref Note 1,2)	D	
	Import in INR based on Base Exchange Rate (Ref Note 1,2)	$E=(C*D)$	
	Contract Value excluding Taxes, Duties & Statutory Levies (Refer Note 3)	(F)	
	Indigenous Content	$G = (F - E)$	
	Indigenous Content (%)	$IC=G *100 / F$	
	Note:		
1.	Base Exchange Rate will be the BC Selling Rate of the Parliament Street Branch of State Bank of India, New Delhi.		
2.	Exchange rate for IC computation should be taken on the date of submission of the 1 st Techno-commercial bid.		
3.	CD, GST and any other applicable taxes, duties, statutory levies should be excluded from both numerator & denominator for calculation of IC ratio		
4.	The consolidated IC Proforma and applicable IC Proforma, Certificates of applicable T1 & T2 suppliers to be maintained by the Prime Contractor and available for audit by the Contracting Authority.		
5.	The IC Proforma / Certificate are to be submitted along with or before the final invoice of the contract. At all prior stages the Prime Contractor shall submit an undertaking of compliance		

Snapshot: What's new? – Chapter I

Indigenous Content Requirement

<u>Ser No</u>	<u>Category</u>	<u>IC</u>
(a)	Buy(Indian-IDDM)	Indigenous design and $\geq 50\%$
(b)	Buy (Indian)	In case of indigenous design $\geq 50\%$ otherwise $\geq 60\%$
(c)	Buy and Make (Indian)	$\geq 50\%$ of the 'Make' portion
(d)	Buy and Make	$\geq 50\%$
(e)	Buy (Global - Manufacture in India)	$\geq 50\%$
(f)	Buy (Global)	Foreign Vendor – Nil Indian Vendor $\geq 30\%$

Snapshot: What's new? – Chapter II

Chapter II	
Paragraph	Change
<u>Acquisition Process</u>	
Para 1(e)	Inclusion of Evaluation of Offset Offer by TEC to process
Para 2-10	Significant revision to section on RFI. Importantly: -Nonconformity/ no response to RFI will not debar vendors issue of RFP -For FOEMs, RFI will seek willingness for ToT, progressive indigenization, domestic MRO, local raw material procurement -Sample RFI in Schedule 1
Para 13-16	Introduction of Military Materials section
Para 17	Introduction of Indigenous software section
<u>Internal Process of MoD</u>	
Para 18-51	Formulation of SQR streamlined Formulation of AoN streamlined

Snapshot: What's new? – Chapter II

Chapter II

Paragraph	Change
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Request for Proposal (RFP)

Para 51 (RFP section)	In case the Pre Dispatch Inspection (PDI)/Joint Receipt Inspection (JRI) are planned to be conducted by authorized Third Party Inspection (TPI) Agencies
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Para 52 (c)	Introduction of Price Variation Clause for cases > Rs 1000 cr + 60mths
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Para 53	Serviceable Trial Equipment will be retained until supply order
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Para 54 (b)	RFP will include Trial Matrix giving details of qualifying parameters that will be part of trial evaluation
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Para 54 (c)	RFP shall indicate the CoC format (where applicable) which is required to be submitted along with technical bids for validating CoC
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Para 55	QA agencies shall mention the broad Quality Assurance Plan (QAP) in RFP
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Transfer of Technology

Para 56	Introduced section on terms for Transfer of Technology
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Snapshot: What's new? – Chapter II

Chapter II

Paragraph	Change
<u>Product Support</u>	
Para 61	Product Support requirements for at least 3 to 5 years beyond the warranty period will be procured along with the main equipment.
Para 64	Major changes include -R&M; Adequacy clause; Buy Back clause; UDLS
Para 73-75	Introduction of Comprehensive Maintenance Contract
Para 80	Introduced concept of PBL for optimizing the availability of spares and services Sample in contract in annexure 3
Field Evaluation Trials (FET)	
Para 102	SHQs to set up specialized Trial Wings
Para 105	Vendors would be allowed to undertake in-situ repairs during trials.

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Snapshot: What's new? – Chapter II

Chapter II

Paragraph	Change
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CNC

Para 147	-Bid to include BNE price quoted by supplier -L1 in such cases will be determined after deducting the cost of the OFB / DPSU / private vendor supplied BNE
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Monitoring Mechanism

Para 181	Monitoring Mechanism for procurement schedule put in place
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Commercial Clauses - Appendix M to Schedule I to Chapter II

Para 1	The delivery of goods will be based on DDP INCOTERMS-2020
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Para 2	Bank Guarantees (BGs) based on Contract Value less taxes and duties Performance cum Warranty BGs – 5% of contract value
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Para 1.3.2	Multiple BGs permitted, from all Public Sector Banks and Private Banks authorized for Government transactions
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Snapshot: What's new? – Chapter II

Key Features of Draft Offset Guidelines 2020

Offset Discharge Avenue	IOP	Offset Discharge Subject To	Multiplier
Direct purchase of eligible defence products & Services	Both private and public sector including DPSUs / OFB	List of eligible defence products in seven categories (civil infrastructure generally excluded)	0.5 for components of eligible product; 1.0 for eligible products; 1.5 if IOP is Micro Small and Medium Enterprise (MSME)
Investment for manufacture of eligible defence products	Private sector / DPSUs / OFB	List of eligible defence products in seven categories (civil infrastructure generally excluded); No restriction on production, sale or export	2.0 if investment is in notified Defence Industrial corridors; 1.5 in other places
Transfer of technology for manufacture of eligible products	Private sector / DPSUs / OFB	List of eligible defence products in seven categories (civil infrastructure generally excluded).	2.0
Technology acquisition for government institutions	DRDO / DPSUs / OFB, etc.	Identified list of technologies in 49 areas	3.0
Technology acquisition	DRDO	List of critical technologies in 32 areas	4.0

Offset discharge can be done by entities other than the PV and its Tier-I sub-vendor on a case to case basis.

Offset banking has been removed

Offset threshold at INR 2000 cr

Snapshot: What's new? – Chapter III

Chapter III	
Paragraph	Change
6(a)	Make I funding reduced from 90% to 70%
Para 6(c)	New Category Make-III {Indigenously Manufactured (IM)}
Para 9-10	SHQs to establish Innovation & Indigenisation Organisation (IIO)
Para 11	Industry can also forward Suo-moto proposals under Make-II, Make-III, as well as 'Open Competition' category for consideration by SHQ
Para 13.2	<p>Incentives for MSMEs</p> <ul style="list-style-type: none"> (i) If Make I project prototype < Rs 10cr and acq; < Rs 50 cr/yr; project earmarked for MSME (ii) If Make II/III project prototype < Rs 3cr and acq; < Rs 50 cr/yr; project earmarked for MSME <p>Both will be open to all if not enough MSME (1 and at least 2 respectively) apply</p>

Snapshot: What's new? – Chapter III

Innovation	Innovation for Defence Excellence (iDEX)	<ul style="list-style-type: none"> • For Start-ups, MSME, academia • Provision for suo-moto proposal from industry; • Grants from government; • Procurement through Buy (Indian-IDDM) category
	Open Competition	<ul style="list-style-type: none"> • User-led projects. Prototype development is < 2 yrs • Cost of prototype development < enhanced powers of the VCDS/Vice Chiefs/Head of the organisation • Provision for suo-moto proposal from industry; • Post successful development, procurement through Buy (Indian-IDDM) category
Technology Development Fund (TDF)		<ul style="list-style-type: none"> • Product should be indigenously designed, developed and manufactured with minimum 50% IC • Procurement through Buy (Indian-IDDM) category

Snapshot: What's new? – Chapter IV

Chapter IV

Paragraph

Change

Para 3

New Section C - Acquisition of Naval Ships of indigenous designs by IHQ MoD (N) to be constructed by shipyards on competitive basis

Section B

Para 76

Inclusion of Modifications

Para 77

Inclusion of Contingency: upto 2% of the basic cost excluding taxes, duties, levies may be catered for unforeseen expenditure for the project.

Para 78

Life Cycle Support:

- Equipment
- Platform

Snapshot: What's new? – Chapter IV

Chapter IV	
Paragraph	Change
Section C	!!New Section!!
Applicability	Applicable for acquisition of Naval warships of indigenous designs by IHQ MoD (N) to be constructed by DPSU Shipyard(s)/ Private Shipyard(s) on competitive basis.
Para 81	<p>Procedure (Additional Steps): First Stage DAC Approval</p> <p style="text-align: center;"><u>After AON;</u></p> <p>Shortlisting of Shipyards (Based on Capacity Assessment) Guideline Specifications (Including Functional Design Deliverable Set I)</p> <p style="text-align: center;"><u>After award of contract</u></p> <p>Submission of Detailed Design</p>
Para 86	<p>Proposal for Second Stage DAC Approval < 18 mths of 1st Stage DAC Approval</p> <p>RFP to be issued < 18 mths 2nd stage DAC Approval</p>

Snapshot: What's new? – Chapter VIII

Chapter VIII POST CONTRACT MANAGEMENT <- New Chapter

Includes sections on:

- Payment Terms
- Payment of advances
- Inspection
- Terms of Delivery
- Aspects Covered
- Course of Action in case of failure of Supply
- Warranty
- Liquidated Damages
- Claims
- Arbitration
- Force Majeure
- Option and Repeat Clause
- Price Variation Clause
- Exchange Rate Variation
- Termination of Contracts



Post Covid-19 Revival Strategy for the Defence & Aerospace Sector

Post Covid-19 Revival Strategy for the Defence & Aerospace Sector

Includes Recommendations for

- Covid-19 Pandemic may be considered as Force Majeure event
- Declare Defence manufacturing as an essential service
- Extension of validity of all defence licenses to be extended by two years
- Fast track of revenue procurements of Spares and Equipment
- Fast Track ripe capital procurement cases
- Priority approval of Make 1 Projects worth Rs 10,000 cr
- Priority approval of Make 2 Projects worth Rs 1,000 cr
- Release of all expired bank guarantees
- Recommend reducing GST and Custom Duty Exemption on Equipment, capital goods and intermediate goods for defence manufacturing
- Expedite Tax refunds
- DPSUs/ OFB outsource 50% of production to pvt industry
- Re-fix the annual average export obligation for EPCG Authorizations
- Provide a USD 1 bn Line of Credit to friendly foreign countries

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Policy issues to be taken with
Ministry of Defence



Initiatives to be undertaken by the committee during the year 2020



End

Snapshot: What's new? – Chapter I

Defining attributes of the 'Buy (Global) and Manufacture in India' category

(a) The equipment/system/platform or the required upgrade is available with foreign OEMs (whether in service in foreign country or not)

AND

(b) And (b) The foreign OEMs should be willing to setup a subsidiary with complete facilities for manufacturing of manufacturing of the entire equipment or spares/assemblies/subassemblies/Maintenance, Repair and Overhaul (MRO) facility for the entire life cycle support of the equipment.

AND

(c) And (c) The equipment/system/platform with the stipulated indigenous content, as per indicated time schedule and in requisite numbers can be effected by the OEM from the manufacturing facility in India.

